

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of  
  
Broadcast Localism

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MB Docket No. 04-233

**COMMENTS OF  
THE ABC TELEVISION AFFILIATES ASSOCIATION**

The ABC Television Affiliates Association (“Association”) submits these comments in response to the *Report On Broadcast Localism And Notice of Proposed Rulemaking* (“Notice”) in the above-referenced proceeding.<sup>1</sup> The Association is a non-profit trade association whose members consist of some 200 local television broadcast stations throughout the country that are affiliated with the ABC Television Network. In support thereof, it is shown as follows.

The *Notice* asks, *inter alia*, whether a new rule should be adopted to require networks to provide their affiliates an opportunity to preview network programming in advance of its scheduled broadcast. The purpose of such a rule would be to assure that affiliates have a meaningful opportunity to preview network programming and exercise their statutory and regulatory right to reject network programming that may be unsuitable for their service area and, even where the programming may not, itself, be unsuitable, to substitute alternative programming the affiliate believes to be of greater national or local interest. Plainly, an affiliate’s statutory and regulatory responsibility to determine its programming and reject unsuitable network programming would have little meaning if a network, as a matter of practice, did not afford its affiliates advance notice of the nature of the network’s programming and a reasonable

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<sup>1</sup> *Broadcast Localism, Report on broadcast Localism and Notice of Proposed Rulemaking*, 23 FCC Rcd 1324 (2008).

opportunity to preview non-live programming for suitability in advance of its scheduled broadcast.

The conventional ABC Television Network affiliation contract expressly provides affiliates with the right-to-reject network programming, and the contract's right-to-reject language comports with the requirements of Section 73.658(d) of the Commission's rules, i.e., the "right-to-reject" rule. Although the standard ABC Television Network affiliation agreement does not expressly grant affiliates the right to preview non-live network programming in advance of its broadcast, the Network has, as a matter of practice in recent years, given its affiliates advance notice of the nature of network programs and has provided a reasonable opportunity for affiliates to preview programming that may present questions in terms of its suitability for all audiences. We asked ABC to provide the Association with a written statement of its policy and practice in this respect, and ABC submitted the following:

ABC's practice is to pre-feed to affiliates the pilots of new scripted series, generally 2-3 business days in advance of broadcast (historically we have not pre-fed pilots or episodes of reality/contest shows given the short time period from completion to air). In addition to pilots of new, scripted series, ABC pre-feeds to its affiliates the episodes of entertainment shows that contain a special parental advisory. We also pre-feed all movies that contain a special parental advisory. By special parental advisory, we mean those programs that, in addition to a TV14 rating, contain an additional visual and audio parental advisory such as "This program contains adult material. Viewer discretion is advised." ABC's practice is to pre-feed these shows 1-2 business days in advance of broadcast, but there are production factors that can, on occasion, decrease that time period. We do not pre-feed ABC News programs, sports, specials, or, obviously, live events.

We believe ABC's practice in this respect has struck a reasonable balance and, for that reason, we do not believe a new mandatory regulatory requirement is necessary. The ability of affiliates to preview non-live ABC Network programming in advance of its broadcast is simply not a problem for ABC affiliates.

That is not to say there may not be instances in which the good faith judgment of ABC executives on matters of suitable content will differ from that of affiliates—or, for that matter, the judgment of affiliates in these matters (as the judgment of the Commission and federal judges) may differ among each other. But, ABC's current preview policy and practice seem to have worked very well and have provided a reasonable opportunity for affiliates to pre-screen and reject certain kinds of non-live network programming. Moreover, a constructive dialogue between the ABC Network and its affiliates takes place on these matters on a regular basis.

As the Commission recognizes in the *Notice*, questions of how much notice is sufficient and what kinds of programming should be subject to a pre-screening rule present a host of practical issues. We are advised by ABC that some non-live network programs may be completed only hours before their scheduled broadcast, all of which underscores the practical concerns that may be implicated by a mandatory rule. Whatever differences (some of which have not been insignificant) we may have had with ABC in recent years over the scope and meaning of the network right-to-reject rule,<sup>2</sup> we do not believe ABC fails to provide affiliates a meaningful opportunity to pre-screen network programming of questionable content or fails, in the normal course, to give advance notice of network programming to allow each affiliate a meaningful opportunity to substitute an alternative program it believes to be of greater national or local interest to its service community.

In light of the ABC Network's current practice, ABC Affiliates do not believe a mandatory pre-screening rule is warranted.

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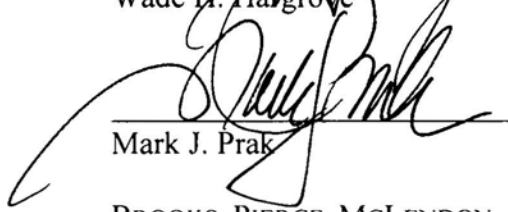
<sup>2</sup> See, *Petition for Inquiry Into Network Practices*, March 8, 2001, and ¶¶ 88-90 of the *Notice*.

### **Conclusion**

We, therefore, respectfully urge the Commission to refrain from adopting a new pre-screening network program rule.

Respectfully submitted,

**ABC TELEVISION AFFILIATES ASSOCIATION**

  
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